

Application No. 08/480,908
Reply dated July 24, 2008
Reply to Office Action of June 27, 2008

REMARKS

In the Office Action, the Examiner allowed claims 1-9, 11-25, 28-48, 69-92, 94, 96-103, 105-119, 121-126, 128-130, 132-135, 137-140, 142-145, 148-156, 158-162, 164, 171-174, 176-180, and 182. Furthermore, the Examiner objected to claims 50-68, 93, 95, 104, 127, 131, 136, 141, 165-168, 170, 184, 185, and 187-192 as being dependent upon rejected independent claims 49, 183, 186, 195, and 197.

The Examiner provisionally rejected independent claims 49, 183, 186, 195, and 197 of the present application on the ground of nonstatutory obviousness-type double patenting ("ODP") as being unpatentable over claims 154, 195, and 221 of copending U.S. Patent Application No. 10/047,545. When promulgating the provisional ODP rejection, the Examiner referenced U.S. Serial No. 10/047,544. However, because U.S. Serial No. 10/047,544 is an unrelated application, Applicant assumes that the provisional ODP rejection incorporated a typographical error, and that the Examiner meant to incorporate U.S. Serial No. 10/047,545.

Please note that the U.S. Serial No. 10/047,545 was recently withdrawn from issuance. (See Communication from Frederick R. Schmidt, Director Technology Center 3700, included as Attachment A.) Therefore, according to MPEP § 804 and Chart I-B included therein, an ODP rejection is properly applicable to U.S. Serial No. 10/047,545. Furthermore, MPEP § 804 also indicates that when two applications are each subject to an ODP rejection, "the examiner should withdraw the ODP rejection in the earlier filed application thereby permitting that application to issue without need of a terminal disclaimer." (MPEP § 804, page 800-17, emphasis added.)

Because U.S. Serial No. 10/047,545 was filed January 01, 2002, but the present application was filed June 07, 1995, Applicant submits that the present application is the earlier filed application by more than six (6) years. Accordingly, Applicant submits that the provisional ODP rejection of independent claims 49, 183, 186, 195, and 197 of the present application should be withdrawn. Furthermore, but for the proper applicability of an ODP rejection to U.S. Serial No. 10/047,545, Applicant submits that both the present application and U.S. Serial No. 10/047,545 are in condition for

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allowance. The present application has been pending for more than 13 years, and is ripe for issuance of a Notice of Allowance.

Therefore, in view of the foregoing remarks, it is respectfully submitted that the claims are patentable. Accordingly, it is requested that the Examiner reconsider the ODP rejection in view of the preceding comments. Issuance of a timely Notice of Allowance of the claims is earnestly solicited.

To the extent any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this reply, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including any fees required for an extension of time under 37 C.F.R. § 1.136, please charge such fees to our Deposit Account No. 50-3726.

Respectfully submitted,

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